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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 7656-000]

### **Village of Highland Falls High-Point Utility, LDC; Notice of Existing Licensee's Failure to File a Notice of Intent to File a Subsequent License Application, and Soliciting; Notices of Intent to File a License Application and Pre-Application Documents**

The current license for Buttermilk Falls Hydroelectric Project No. 7656 (Buttermilk Falls Project) was issued to the original licensee, John A. Dodson, on June 24, 1986, for a term of 40 years, ending May 31, 2026.<sup>1</sup> The project became non-operational in 2012 due to damage caused by Hurricanes Sandy and Irene, and has remained non-operational since. The license was transferred to the current licensee, Village of Highland Falls High-Point Utility, LDC (High-Point Utility) on September 21, 2017.<sup>2</sup> The 75-kilowatt (kW) project is located on Buttermilk Falls Brook, a tributary of the Hudson River, in Orange County, New York.

The principal project works consist of: (1) an 18-inch-high, 15-foot-long dam; (2) an 18-inch-diameter, 400-foot-long PVC penstock; (3) a powerhouse containing one 55-kW and one 20-kW generating unit, for a total of installed generating capacity of 75-kW; (4) two 480-volt generator leads; (5) a 300-foot-long, 480-volt transmission line; and (6) a 0.48/13.6-kilovolt cable connecting the transformer to the area distribution system.

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<sup>1</sup> See *John A. Dodson*, 35 FERC ¶ 62,532 (1986).

<sup>2</sup> See *John A. Dodson, Village of Highland Falls High-Point Utility, LDC*, 160 FERC ¶ 62,239 (2017).

At least five years before the expiration of a license for a minor water power project in which sections 14 and 15 of the Federal Power Act were waived, the Commission's regulations require the licensee to file with the Commission a notice of intent (NOI) that contains an unequivocal statement of the licensee's intention to file or not to file an application for a subsequent license, details on the principal project works and installed plant capacity, and other information.<sup>3</sup>

If such a licensee does not inform the Commission that it intends to file an application for, in this case, a subsequent license for the project, the licensee may not file an application for a subsequent license, either individually or in conjunction with an entity or entities that are not currently licensees of the project.<sup>4</sup>

Because the current license expires on May 31, 2026, the NOI was due to be filed no later than the close of business on May 31, 2021.<sup>5</sup> High-Point Utility, the current licensee for the Buttermilk Falls Project, failed to file an NOI by this date.<sup>6</sup>

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<sup>3</sup> 18 CFR 16.19(b) (2020) (citing 18 CFR 16.6(b)). Section 16.19(b) applies to licenses not subject to Parts 14 and 15 of the Federal Power Act.

<sup>4</sup> 18 CFR 16.24(b) (2020).

<sup>5</sup> The Commission's Rules of Practice and Procedure provide that if a filing deadline falls on a Saturday, Sunday, holiday, or other day when the Commission is closed for business, the filing deadline does not end until the close of business on the next business day. 18 CFR 2007(a)(2) (2020). Because the deadline to file the NOI fell on a federal holiday (i.e., Memorial Day), the filing deadline was extended until the close of business on Tuesday, June 1, 2021.

<sup>6</sup> On June 23, 2021, High-Point Utility filed a letter indicating that it intended to proceed with relicensing for the Buttermilk Falls Hydroelectric Project No. 7656, however, the filing was not in conformance with the noticing requirements of section 5.5 of the Commission's regulations, because among other things, it did not identify the principle project works and it did not include the names and mailing addresses of nearby municipalities, counties, political subdivisions, or affected Indian tribes. It also did not include a pre-application document as required by section 5.6 of the regulations.

Any party interested in filing a license application for the Buttermilk Falls Project No. 7656 must first file a NOI<sup>7</sup> and pre-application document (PAD)<sup>8</sup> pursuant to Part 5 of the Commission's regulations. Although the integrated licensing process is the default pre-filing process, section 5.3(b) of the Commission's regulations allows a potential license applicant to request to use alternative licensing procedures when it files its NOI.<sup>9</sup>

This notice sets a deadline of 120 days from the date of this notice for interested applicants, other than the existing licensee, to file NOIs, PADs, and requests to use an alternative licensing process.

Applications for a subsequent license from potential (non-licensee) applicants must be filed with the Commission at least 24 months prior to the expiration of the current license.<sup>10</sup> Because the current license expires on May 31, 2026, applications for license for this project must be filed by May 31, 2024.<sup>11</sup>

Questions concerning this notice should be directed to Samantha Pollak at (202) 502-6419 or [samantha.pollak@ferc.gov](mailto:samantha.pollak@ferc.gov).

Dated: August 5, 2021.

**Kimberly D. Bose,**

*Secretary.*

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<sup>7</sup> 18 CFR 5.5 (2020).

<sup>8</sup> 18 CFR 5.6 (2020).

<sup>9</sup> 18 CFR 5.3(b) (2020).

<sup>10</sup> 18 CFR 16.20 (2020).

<sup>11</sup> To the extent an interested applicant files an NOI and PAD and elects or is required to use the Commission's ILP, a process plan will be issued within 180 days of this notice, which accelerates the steps of the ILP to allow for filing a subsequent license application by the May 31, 2024 deadline.